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# HOUSE BILL No. 1262

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-41-4-2.

**Synopsis:** Statute of limitations for sex offenders. Specifies that certain Class A felony sex offense prosecutions may be commenced at any time. (The introduced version of this bill was prepared by the sentencing policy study committee.)

**Effective:** July 1, 2009.

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**Foley, Lawson L, Smith V, Borders**

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January 13, 2009, read first time and referred to Committee on Interstate and International Cooperation.

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First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1262

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 35-41-4-2, AS AMENDED BY P.L.173-2006,  
2 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 2. (a) Except as otherwise provided in this section,  
4 a prosecution for an offense is barred unless it is commenced:  
5 (1) within five (5) years after the commission of the offense, in  
6 the case of a Class B, Class C, or Class D felony; or  
7 (2) within two (2) years after the commission of the offense, in the  
8 case of a misdemeanor.  
9 (b) A prosecution for a Class B or Class C felony that would  
10 otherwise be barred under this section may be commenced within one  
11 (1) year after the earlier of the date on which the state:  
12 (1) first discovers evidence sufficient to charge the offender with  
13 the offense through DNA (deoxyribonucleic acid) analysis; or  
14 (2) could have discovered evidence sufficient to charge the  
15 offender with the offense through DNA (deoxyribonucleic acid)  
16 analysis by the exercise of due diligence.  
17 (c) A prosecution for a Class A felony may be commenced at any



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1 time.

2 (d) A prosecution for murder may be commenced:

3 (1) at any time; and

4 (2) regardless of the amount of time that passes between:

5 (A) the date a person allegedly commits the elements of  
6 murder; and

7 (B) the date the alleged victim of the murder dies.

8 (e) A prosecution for the following offenses is barred unless  
9 commenced before the date that the alleged victim of the offense  
10 reaches thirty-one (31) years of age:

11 (1) IC 35-42-4-3(a) (Child molesting).

12 (2) IC 35-42-4-5 (Vicarious sexual gratification).

13 (3) IC 35-42-4-6 (Child solicitation).

14 (4) IC 35-42-4-7 (Child seduction).

15 (5) IC 35-46-1-3 (Incest).

16 **However, a prosecution for an offense described in this subsection**  
17 **that is a Class A felony may be commenced at any time.**

18 (f) A prosecution for forgery of an instrument for payment of  
19 money, or for the uttering of a forged instrument, under IC 35-43-5-2,  
20 is barred unless it is commenced within five (5) years after the maturity  
21 of the instrument.

22 (g) If a complaint, indictment, or information is dismissed because  
23 of an error, defect, insufficiency, or irregularity, a new prosecution may  
24 be commenced within ninety (90) days after the dismissal even if the  
25 period of limitation has expired at the time of dismissal, or will expire  
26 within ninety (90) days after the dismissal.

27 (h) The period within which a prosecution must be commenced does  
28 not include any period in which:

29 (1) the accused person is not usually and publicly resident in  
30 Indiana or so conceals himself or herself that process cannot be  
31 served;

32 (2) the accused person conceals evidence of the offense, and  
33 evidence sufficient to charge the person with that offense is  
34 unknown to the prosecuting authority and could not have been  
35 discovered by that authority by exercise of due diligence; or

36 (3) the accused person is a person elected or appointed to office  
37 under statute or constitution, if the offense charged is theft or  
38 conversion of public funds or bribery while in public office.

39 (i) For purposes of tolling the period of limitation only, a  
40 prosecution is considered commenced on the earliest of these dates:

41 (1) The date of filing of an indictment, information, or complaint  
42 before a court having jurisdiction.

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- 1 (2) The date of issuance of a valid arrest warrant.
- 2 (3) The date of arrest of the accused person by a law enforcement
- 3 officer without a warrant, if the officer has authority to make the
- 4 arrest.
- 5 (j) A prosecution is considered timely commenced for any offense
- 6 to which the defendant enters a plea of guilty, notwithstanding that the
- 7 period of limitation has expired.

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